

1-1 By: Alvarado S.B. No. 609  
 1-2 (In the Senate - Filed February 8, 2021; March 11, 2021,  
 1-3 read first time and referred to Committee on Finance;  
 1-4 April 15, 2021, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 13, Nays 2; April 15, 2021,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Nelson	X			
1-9 Lucio	X			
1-10 Bettencourt		X		
1-11 Buckingham	X			
1-12 Campbell	X			
1-13 Creighton	X			
1-14 Hancock	X			
1-15 Huffman	X			
1-16 Kolthorst	X			
1-17 Nichols		X		
1-18 Perry	X			
1-19 Schwertner	X			
1-20 Taylor	X			
1-21 West	X			
1-22 Whitmire	X			

1-24 COMMITTEE SUBSTITUTE FOR S.B. No. 609 By: Nelson

1-25 A BILL TO BE ENTITLED  
 1-26 AN ACT

1-27 relating to the creation of the Texas music incubator rebate  
 1-28 program to provide for rebates of a portion of certain taxes  
 1-29 collected from certain music venues and promoters of certain music  
 1-30 festivals.

1-31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-32 SECTION 1. Chapter 485, Government Code, is amended by  
 1-33 adding Subchapter C to read as follows:

1-34 SUBCHAPTER C. TEXAS MUSIC INCUBATOR REBATE PROGRAM

1-35 Sec. 485.041. DEFINITIONS. (a) Except as provided by  
 1-36 Subsection (b), the definitions in Section 1.04, Alcoholic Beverage  
 1-37 Code, apply to this subchapter.

1-38 (b) In this subchapter:

1-39 (1) "Mixed beverage gross receipts tax" means the tax  
 1-40 imposed by Subchapter B, Chapter 183, Tax Code.

1-41 (2) "Permit holder" means a person who holds a permit  
 1-42 issued under Section 151.201, Tax Code.

1-43 (3) "Permittee" has the meaning assigned by Section  
 1-44 183.001(b), Tax Code.

1-45 (4) "Program" means the Texas music incubator rebate  
 1-46 program.

1-47 (5) "Sales tax" means the tax imposed by Chapter 151,  
 1-48 Tax Code.

1-49 Sec. 485.042. TEXAS MUSIC INCUBATOR REBATE PROGRAM. (a)  
 1-50 The office shall administer the Texas music incubator rebate  
 1-51 program under which the office shall provide to eligible music  
 1-52 venues and eligible music festival promoters from money  
 1-53 appropriated from the Texas music incubator account a full or  
 1-54 partial rebate of the mixed beverage gross receipts taxes and sales  
 1-55 tax receipts attributable to the sale of beer and wine and remitted  
 1-56 to the comptroller annually by those venues and promoters. The  
 1-57 Texas music incubator account shall be funded by mixed beverage  
 1-58 gross receipts taxes and sales tax receipts attributable to the  
 1-59 sale of beer and wine remitted annually by venues and promoters and  
 1-60 deposited into that account as required by Sections 151.801(f) and

2-1 183.023(c), Tax Code. The rebates are to assist eligible music  
2-2 venues and eligible music festival promoters in their efforts to  
2-3 support and continue to bring to local communities in this state  
2-4 live musical performances, including the recruitment of musical  
2-5 performance artists.

2-6 (b) The office may not provide a rebate under the program to  
2-7 a music venue or music festival promoter in an amount that exceeds  
2-8 the lesser of:

2-9 (1) the amount of mixed beverage gross receipts taxes  
2-10 and sales taxes attributable to the sale of beer and wine remitted  
2-11 in the preceding fiscal year to the comptroller by the music venue  
2-12 or music festival promoter as a permittee or permit holder; or

2-13 (2) \$100,000.

2-14 Sec. 485.043. ELIGIBILITY FOR REBATE. (a) Except as  
2-15 provided by Subsection (b), to qualify for a rebate under the  
2-16 program, a music venue or music festival promoter, for at least the  
2-17 two years preceding the date on which the music venue or promoter,  
2-18 as applicable, submits an application under Section 485.044, must  
2-19 have:

2-20 (1) been a permittee subject to the mixed beverage  
2-21 gross receipts tax or a permit holder subject to the sales tax on  
2-22 the sale of beer or wine;

2-23 (2) if the applicant is a music venue, been a retail  
2-24 establishment with a dedicated audience capacity of not more than  
2-25 3,000 persons;

2-26 (3) if the applicant is a music festival promoter,  
2-27 held a music festival in a county with a population of less than  
2-28 100,000;

2-29 (4) entered into a written contract with a musical  
2-30 performance artist to conduct a live performance at the venue or  
2-31 festival, as applicable, under which the artist received as  
2-32 compensation a specified percentage of ticket sales for or other  
2-33 sales during the performance, or a guaranteed amount in advance of  
2-34 the performance; and

2-35 (5) met at least five of the following criteria, one of  
2-36 which must be described by Paragraph (A) or (B):

2-37 (A) the marketing of live music performances  
2-38 through listings in printed or electronic publications;

2-39 (B) the provision of live music performances five  
2-40 or more nights per week;

2-41 (C) employment or contracting of the services of  
2-42 one or more people who are tasked with two or more of the following  
2-43 positions or services:

2-44 (i) sound engineer;

2-45 (ii) booker;

2-46 (iii) promoter;

2-47 (iv) stage manager; or

2-48 (v) security personnel;

2-49 (D) having live performance and audience space;

2-50 (E) the provision of technical sound and lighting  
2-51 support, either in-house or through a contract with a vendor;

2-52 (F) having a space for the storage of audio  
2-53 equipment or musical instruments;

2-54 (G) the application of cover charges to one or  
2-55 more live music performances through ticketing or the imposition of  
2-56 a front door entrance fee; or

2-57 (H) the maintenance of hours of operation that  
2-58 coincide with live music performance show times.

2-59 (b) The office may, at the office's discretion, provide a  
2-60 rebate under the program to a music venue or a music festival  
2-61 promoter that fails to meet the eligibility requirements prescribed  
2-62 by Subsection (a) solely because the venue is located, or the  
2-63 festival is usually held, as applicable, in a county located wholly  
2-64 or partly in an area that at any time during the preceding two-year  
2-65 period was declared to be a disaster area by the governor or by the  
2-66 president of the United States.

2-67 Sec. 485.044. REBATE APPLICATION. (a) The office shall:

2-68 (1) subject to Subsection (b), prescribe the  
2-69 application form for obtaining a rebate under the program; and

3-1 (2) establish an online portal on the office's public  
 3-2 Internet website that allows a music venue or music festival  
 3-3 promoter to submit the application to the office for consideration.

3-4 (b) The application must:

3-5 (1) state the amount of mixed beverage gross receipts  
 3-6 tax and sales tax receipts attributable to the sale of beer and wine  
 3-7 that was remitted to the comptroller by the music venue or music  
 3-8 festival promoter in the preceding fiscal year;

3-9 (2) include sufficient evidence for the office to  
 3-10 determine that the music venue or promoter qualifies for a rebate;  
 3-11 and

3-12 (3) include any other information the office  
 3-13 determines necessary to administer the program.

3-14 (c) The office shall accept rebate applications beginning  
 3-15 September 1 of each year and may provide rebates until all the money  
 3-16 in the Texas music incubator account is exhausted.

3-17 (d) The office may expedite the review of an application  
 3-18 submitted by a music venue or music festival promoter, if the venue  
 3-19 is located, or the festival is usually held, as applicable, in a  
 3-20 county located wholly or partly in an area that at any time during  
 3-21 the preceding two-year period was declared to be a disaster area by  
 3-22 the governor or by the president of the United States.

3-23 Sec. 485.045. REVIEW OF APPLICATIONS; REBATES. (a) After  
 3-24 reviewing applications for a rebate under the program, the office  
 3-25 shall grant rebates to eligible music venues and music festival  
 3-26 promoters that the office determines provide or have committed to  
 3-27 provide the most economic benefit to the communities in which the  
 3-28 music venues are located or the festivals are held, as applicable,  
 3-29 and to the Texas music industry, including live music performers.

3-30 (b) As directed by the office, the comptroller shall issue a  
 3-31 warrant for a rebate granted by the office under this section drawn  
 3-32 on the Texas music incubator account.

3-33 Sec. 485.046. TEXAS MUSIC INCUBATOR ACCOUNT. (a) The Texas  
 3-34 music incubator account is a dedicated account in the general  
 3-35 revenue fund. The account is composed of:

3-36 (1) money deposited to the credit of the account under  
 3-37 Sections 151.801(f) and 183.023(c), Tax Code;

3-38 (2) gifts, grants, and other money received by the  
 3-39 office for the program; and

3-40 (3) other amounts deposited to the credit of the  
 3-41 account.

3-42 (b) Money in the account may be appropriated only to the  
 3-43 office for the purpose of paying rebates to music venues and certain  
 3-44 music festival promoters under the program.

3-45 (c) Interest and other earnings from money in the account  
 3-46 shall be credited to the account.

3-47 (d) On the last day of each state fiscal biennium, the  
 3-48 comptroller shall transfer any money deposited to the account under  
 3-49 Subsection (a)(1) that is unobligated and unexpended on that date  
 3-50 to the general revenue fund to be used in accordance with  
 3-51 legislative appropriation.

3-52 Sec. 485.047. RULES. The office shall adopt rules  
 3-53 necessary to implement and administer this subchapter.

3-54 SECTION 2. Section 151.801, Tax Code, is amended by  
 3-55 amending Subsection (a) and adding Subsection (f) to read as  
 3-56 follows:

3-57 (a) Except for the amounts allocated under Subsections (b),  
 3-58 (c), (c-2), ~~and~~ (c-3), and (f), all proceeds from the collection  
 3-59 of the taxes imposed by this chapter shall be deposited to the  
 3-60 credit of the general revenue fund.

3-61 (f) The comptroller shall deposit each fiscal year \$100,000  
 3-62 of the revenue received under this chapter to the credit of the  
 3-63 Texas music incubator account under Section 485.046, Government  
 3-64 Code.

3-65 SECTION 3. Section 183.023, Tax Code, is amended by  
 3-66 amending Subsection (b) and adding Subsection (c) to read as  
 3-67 follows:

3-68 (b) Except for the amounts allocated under Subsection (c),  
 3-69 the ~~The~~ comptroller shall deposit the revenue received under this

4-1 section in the general revenue fund.

4-2 (c) The comptroller shall deposit each fiscal year \$10  
4-3 million of the revenue received under this section to the credit of  
4-4 the Texas music incubator account under Section 485.046, Government  
4-5 Code.

4-6 SECTION 4. (a) Not later than September 1, 2022, the Music,  
4-7 Film, Television, and Multimedia Office within the office of the  
4-8 governor shall establish the Texas music incubator rebate program  
4-9 as required under Subchapter C, Chapter 485, Government Code, as  
4-10 added by this Act.

4-11 (b) Notwithstanding Section 485.044(c), Government Code, as  
4-12 added by this Act, the Music, Film, Television, and Multimedia  
4-13 Office shall begin accepting rebate applications as authorized  
4-14 under that section beginning September 1, 2022.

4-15 SECTION 5. The Music, Film, Television, and Multimedia  
4-16 Office and the comptroller of public accounts are required to  
4-17 implement a provision of this Act only if the legislature  
4-18 appropriates money specifically for that purpose. If the  
4-19 legislature does not appropriate money specifically for that  
4-20 purpose, the office and comptroller may, but are not required to,  
4-21 implement a provision of this Act using other appropriations that  
4-22 are available for that purpose.

4-23 SECTION 6. This Act takes effect September 1, 2021.

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